

Small Claims DOCKET

DOCKET NUMBER

200316SC001088

Trial Court of Massachusetts
District Court Department



CASE NAME

KATHERINE WAGNER vs. AIR FRANCE

03-CV-40260

CURRENT COURT

FITCHBURG DISTRICT COURT
Fitchburg District Office
100 Elm Street
Fitchburg, MA 01420-8189
(978) 345-2114

ASSOCIATED DOCKET NO.

DATE FILED

09/12/2003

DATE DISPOSED

00/00/0000

PLAINTIFF(S)

P01 KATHERINE WAGNER
C/O NORM WAGNER
39 MASS AVE
LUNENBURG, MA 01462
(978) 342-1330

PLAINTIFF'S ATTORNEY

DEFENDANT(S)/OTHER SINGLE PARTIES

D01 AIR FRANCE
CUSTOMER RELATIONS
PO BOX 459000
SUNRISE, FL 33345
(877) 247-9247

DEFENDANT'S ATTORNEY

NO.	ENTRY DATE	DOCKET ENTRIES
1	10/03/2003	Statement of Small Claim entered on 09/12/2003 at Fitchburg District Court.
2	10/03/2003	Filing fee of \$30.00 and surcharge of \$10.00 paid (G.L. c.218 §22; 262 §4C).
3	10/03/2003	Case Inactivated: No future events scheduled.
4	10/22/2003	Small claim notice of trial issued to plaintiff(s) by first class mail, and to defendant(s) by certified and first class mail (Uniform Small Claims Rule 3(a)).
5	10/22/2003	MAGISTRATE TRIAL SCHEDULED for 12/01/2003 01:00 PM.
6	11/07/2003	Return of service on small claim notice of trial to D01 AIR FRANCE: Certified mail returned DELIVERED; signed receipt returned.
7	11/26/2003	Notice of Removal to the U. S. District Court filed.

Page 1 of 2

A TRUE COPY,
ATTEST:

CLERK-MAGISTRATE/ASST. CLERK

X *Ronald B. Iyemie*

DATE

12-2-03

Date/Time Printed: 12/02/2003 12:23 PM

ROBINS, KAPLAN, MILLER & CIRESI LLP

SUITE 1300
111 HUNTINGTON AVENUE
BOSTON, MA 02199-7610
TEL: 617-267-2300 FAX: 617-267-8288
www.rkmc.com

ATTORNEYS AT LAW

PETER F. WINTERS
(617) 859-2716

November 24, 2003

Clerk of the Court
Fitchburg District Court/Small Claims Division
100 Elm Street
Fitchburg, Massachusetts 01420

Re: Katherine Wagner v. Societe Air France/Civil Action 0316 SC 1088

Dear Sir/Madam:

I enclose a Notice of Removal to the U.S. District Court for the above-captioned matter.

If you have any questions, please do not hesitate to call me.

Yours very truly,

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.


Peter F. Winters

/bjc
enclosures

35011743.1

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, SS

FITCHBURG DISTRICT COURT

KATHERINE WAGNER

Plaintiff,

v.

SOCIÉTÉ AIR FRANCE (improperly designated
as "Air France")

Defendant.

CIVIL ACTION NO.:
0316 SC 1088

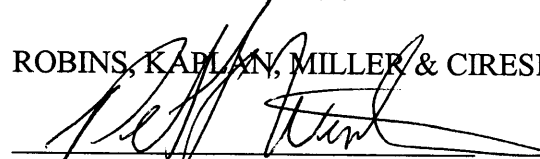
NOTICE OF REMOVAL

To Plaintiff Katherine Wagner:

Please be advised that a Notice of Removal was filed in this action removing it to the United States District Court for the District of Massachusetts, Worcester Division, on November 24, 2003.

A copy of said Notice attached and is served and filed herewith.

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.


Peter F. Winters. (BBO No.: 555698)

111 Huntington Avenue, Suite 1300

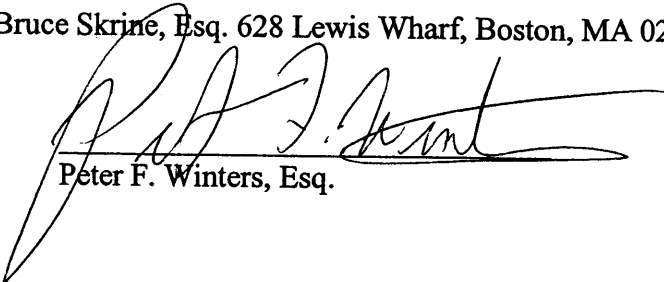
Boston, Massachusetts 02199

(617) 267-2300

Attorneys for Defendant, Société Air France

CERTIFICATE OF SERVICE

I, Peter F. Winters, Esq., hereby certify that a true and correct copy of the foregoing document has been mailed, first class mail, postage prepaid on November 24, 2003, to the plaintiff and plaintiff's counsel, Bruce Skrine, Esq. 628 Lewis Wharf, Boston, MA 02110.


Peter F. Winters, Esq.

UNITED STATES DISTRICT COURT **FILED**
FOR THE DISTRICT OF MASSACHUSETTS **CLERKS OFFICE**

KATHERINE WAGNER

Plaintiff,

v.

SOCIÉTÉ AIR FRANCE (improperly designated
as "Air France")

Defendant.

2004 NOV 24 A 10:19

U.S. DISTRICT COURT
DISTRICT OF MASS.

CIVIL ACTION NO.:

03-40260

NOTICE OF REMOVAL

TO: THE HONORABLE JUDGES OF THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

PLEASE TAKE NOTICE that the Defendant, Société Air France (improperly designated "Air France"), by and through its undersigned counsel, Robins, Kaplan, Miller & Ciresi LLP, hereby notifies this Honorable Court of the removal of the above-captioned civil action from the Fitchburg District Court to the United States District Court for the District of Massachusetts. The basis for removal is more particularly stated as follows:

1. On or about September 2, 2003, the Plaintiff, Katherine Wagner ("Plaintiff"), commenced this action by filing a Statement of Small Claim in the Fitchburg Division of the District Court Department, in the county of Worcester, in the matter captioned *Katherine Wagner v. Air France*, Civil Action No. 0316 SC 1088. A true and correct copy of the Statement of Small Claim is attached hereto as Exhibit "A."

2. On or about November 5, 2003, Defendant received a copy of the attached Notice of Small Claim at its Florida customer service center.

3. There have been no further proceedings in the Fitchburg District Court and there are no other pleadings of record in that action.

4. This Notice of Removal is being filed with the Court within thirty (30) days of Defendant's receipt of the Statement of Small Claim as provided by 28 U.S.C. §1446(b).

5. Defendant is a foreign corporation, duly organized and existing under the laws of the Republic of France, with a principal place of business located in Paris, France.

6. The Republic of France owns a majority of the shares of stock of the Defendant.

7. Defendant is an "agent or instrumentality of a foreign state" as defined by 28 U.S.C. §1603 as it is a corporation with a majority of shares owned by a foreign state or political subdivision.

8. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §1330, without regard to the amount in controversy and this action is removable pursuant to 28 U.S.C. §1441(d).

9. As an agency or instrumentality of a foreign state, Defendant hereby invokes its right pursuant to 28 U.S.C. §1441(d) to have this action tried without a jury in the United States District Court for the District of Massachusetts.

WHEREFORE, Defendant, Société Air France (improperly designated Air France), respectfully requests that the above-captioned action be removed from the Fitchburg Division of

the District Court Department to this Honorable Court.

Respectfully submitted,
ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

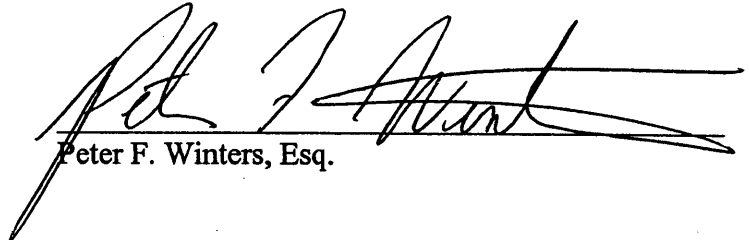
A handwritten signature in black ink, appearing to read "Peter F. Winters", is written over a horizontal line.

Peter F. Winters. (BBO No.: 555698)
111 Huntington Avenue, Suite 1300
Boston, Massachusetts 02199
(617) 267-2300
Attorneys for Defendant, Société Air France

DATED: November 24, 2003


CERTIFICATE OF SERVICE

I, Peter F. Winters, Esq., hereby certify that a true and correct copy of the foregoing document has been mailed, first class mail, postage prepaid on November 24, 2003, to the plaintiff's counsel Bruce Skine, 620 Lewis Wharf, Boston, MA 02110.



Peter F. Winters, Esq.

STATEMENT OF SMALL CLAIM AND NOTICE OF TRIAL		For Court Use Only →	DOCKET NO. 03165C 1088	Trial Court of Massachusetts Small Claims Session	
<input type="checkbox"/> BOSTON MUNICIPAL COURT PART 1		<input checked="" type="checkbox"/> DISTRICT COURT Fitchburg Sm. Claims Division		<input type="checkbox"/> HOUSING COURT Division	
PLAINTIFF'S NAME, ADDRESS, ZIP CODE AND PHONE Katherine Wagner Norm Wagner 8 Glen Lane 39 MA33 AVE Sudbury MA 01776 LUNENBURG MA 01462 PHONE NO: 978-342-1330		PLAINTIFF'S ATTORNEY (if any) Name: _____ Address: _____ PHONE NO: _____		RECEIVED NOV - 7 2003 NYC. AJ	
DEFENDANT'S NAME, ADDRESS, ZIP CODE AND PHONE AIR FRANCE - Customer Relations P.O. BOX 459000 Sunrise, FL 33345 PHONE NO: 877-247-9247		ADDITIONAL DEFENDANT (if any) Name: _____ Address: _____ PHONE NO: 40.00			
PART 2 PLAINTIFF'S CLAIM. The defendant owes \$ 1000.00 plus \$ 1500 court costs for the following reasons: Give the date of the event that is the basis of your claim. On 7/19/03, Air France practiced unfair and deceptive trade practices. I had confirmed reservations for flight 1149. Air France bumped me from my flight and made no attempt to reschedule me on another flight leaving me stranded in France.					
PART 3 SIGNATURE OF PLAINTIFF X Katherine Wagner Date 9/1/03					
PART 4 MEDIATION: Mediation of this claim may be available prior to trial if both parties agree to discuss the matter with a mediator, who will assist the parties in trying to resolve the dispute on mutually agreed to terms. The plaintiff must notify the court if he or she desires mediation; the defendant may consent to mediation on the trial date. <input type="checkbox"/> The plaintiff is willing to attempt to settle this claim through court mediation.					
PART 5 MILITARY AFFIDAVIT: The plaintiff states under the pains and penalties of perjury that the: <input checked="" type="checkbox"/> above defendant(s) is (are) not serving in the military and at present live(s) or work(s) at the above address. <input type="checkbox"/> above defendant(s) is (are) serving in the military.					
NOTICE OF TRIAL You are being sued in Small Claims Court by the above named plaintiff. You are directed to appear for trial of this claim on the date and time noted to the right. If you wish to settle this claim before the trial date, you should contact the plaintiff or the plaintiff's attorney. SEE ADDITIONAL INSTRUCTIONS ON THE BACK OF THIS FORM		NAME AND ADDRESS OF COURT FITCHBURG DISTRICT COURT 100 HIL STREET FITCHBURG, MA 01420		BOTH THE PLAINTIFF AND THE DEFENDANT MUST APPEAR AT THIS COURT ON THE DATE AND TIME SPECIFIED A COURT USE ONLY	
		DATE AND TIME OF TRIAL MONDAY, 12/1/03 AT 1:00 PM DATE TIME			
FIRST JUSTICE PAUL E. LOCONTO		CLERK/MAGISTRATE/DESIGNEE [Signature]		ROOM NO. MAIN FLOOR COURTROOM	

STATEMENT OF SMALL CLAIM AND NOTICE OF TRIAL		For Court Use Only. DOCKET NO. 0316 SC 1088	Trial Court of Massachusetts Small Claims Session		
PART 1	<input type="checkbox"/> BOSTON MUNICIPAL COURT	<input checked="" type="checkbox"/> DISTRICT COURT <i>Fitchburg Sm. Claims Division</i>	<input type="checkbox"/> HOUSING COURT		Division
PART 2	PLAINTIFF'S NAME, ADDRESS, ZIP CODE AND PHONE <i>Katherine Wagner Norm Wagner</i> <i>8 Glen Lane 39 MA33 AVE</i> <i>Sudbury MA 01776 LUNenburg MA 01462</i>		PLAINTIFF'S ATTORNEY (if any) Name: _____ Address: _____		
	PHONE NO: <i>978-342-1330</i>	PHONE NO: _____	BBO NO: _____		
PART 3	DEFENDANT'S NAME, ADDRESS, ZIP CODE AND PHONE <i>AIR FRANCE - Customer Relations</i> <i>P.O. BOX 459000</i> <i>Sunrise, FL 33345</i>		ADDITIONAL DEFENDANT (if any) Name: _____ Address: <i>97020000009/12/03</i> <i>CHARGE</i>		
	PHONE NO: <i>877-247-9247</i>	PHONE NO: <i>40.00</i>			
PART 4	PLAINTIFF'S CLAIM. The defendant owes \$ <i>1000.00</i> plus \$ <i>75.00</i> court costs for the following reasons: Give the date of the event that is the basis of your claim. <i>On 7/19/03, Air France practiced unfair and deceptive trade practices. I had confirmed reservations for flight 1149. Air France bumped me from my flight and made no attempt to reschedule me on another flight, leaving me stranded in France.</i>				
	SIGNATURE OF PLAINTIFF X <i>Katherine Wagner</i> <i>9/1/03</i>				
PART 5	MEDIATION: Mediation of this claim may be available prior to trial if both parties agree to discuss the matter with a mediator, who will assist the parties in trying to resolve the dispute on mutually agreed to terms. The plaintiff must notify the court if he or she desires mediation; the defendant may consent to mediation on the trial date. <input type="checkbox"/> The plaintiff is willing to attempt to settle this claim through court mediation.				
PART 6	MILITARY AFFIDAVIT: The plaintiff states under the pains and penalties of perjury that the: <input checked="" type="checkbox"/> above defendant(s) is (are) not serving in the military and at present live(s) or work(s) at the above address. <input type="checkbox"/> above defendant(s) is (are) serving in the military				
PART 7	SIGNATURE OF PLAINTIFF <i>Katherine Wagner</i> DATE _____				
NOTICE OF TRIAL	NOTICE TO DEFENDANT: You are being sued in Small Claims Court by the above named plaintiff. You are directed to appear for trial of this claim on the date and time noted to the right. If you wish to settle this claim before the trial date, you should contact the plaintiff or the plaintiff's attorney. SEE ADDITIONAL INSTRUCTIONS ON THE BACK OF THIS FORM		NAME AND ADDRESS OF COURT FITCHBURG DISTRICT COURT 100 ELM STREET FITCHBURG, MA 01420		BOTH THE PLAINTIFF AND THE DEFENDANT MUST APPEAR AT THIS COURT ON THE DATE AND TIME SPECIFIED COURT USE ONLY
	FIRST JUSTICE PAUL F. LOCONTO		DATE AND TIME OF TRIAL MONDAY, 12/1/03 AT 1:00 PM DATE TIME ROOM NO. MAIN FLOOR COURTROOM		

INSTRUCTIONS FOR FILING A SMALL CLAIM — You must complete Parts 1-6 of this form. See instructions on reverse.

SENDER: COMPLETE THIS SECTION Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.		COMPLETE THIS SECTION ON DELIVERY A. Signature <input checked="" type="checkbox"/> X <input type="checkbox"/> Agent B. Return Receipt for Merchandise <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO C. Date of Delivery D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:	
1. Article Addressed to: 0316 SC 1088 - 12-1-03 0316 SC 1088 France		3. Service Type <input checked="" type="checkbox"/> Registered Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Insured Mail <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> C.O.D. <input type="checkbox"/> Yes	
2. Article Number (Transfer from service label) 7002 3150 0006 7751 1658 PS Form 3811, August 2001 Domestic Return Receipt		4. Restricted Delivery (Extra Fee) <input type="checkbox"/> Yes	

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

UNITED STATES POSTAL SERVICE

2003 NOV -4 AM 12:21
FITCHBURG DIVISION
CLERK MAGISTRATE'S OFFICE
FITCHBURG, MA 01420

THAL COURT OF THE COMMONWEALTH
DISTRICT COURT DEPARTMENT
FITCHBURG DIVISION
CLERK-MAGISTRATE'S OFFICE
100 ELM STREET
FITCHBURG, MA 01420

Sender: Please print your name, address, and ZIP+4 in this box •

03 SC 1088

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits. <i>12-1-03</i></p>		<p>A. Signature: <i>[Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to: <i>0316 SC 1088 -</i> <i>0316 SC 1023</i></p> <p><i>Air France</i></p>		<p>B. Received by (Printed Name): ALVIN STAPLES</p> <p>C. Date of Delivery: OCT 27 2003</p>	
<p>2. Article Number (Transfer from service label) 7002 3150 0006 7751 1658</p>		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
<p>PS Form 3811, August 2001</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p> <p>Domestic Return Receipt</p>	

2ACPRI-03-P-4081

